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February 5, 2009

VIA ECF

Magistrate Judge James Orenstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Maloof et al. v. Call A Head et al.
Docket No. 08 cv 2873

Dear Magistrate Judge Orenstein:

The undersigned is co-counsel to the Plaintiff in the above referenced matter. As per the Court's individual rules, I write to request a pre-motion conference concerning Plaintiff's intention to file (1) a Motion for Representative Discovery and (2) a Motion for Class Certification under Rule 23(b).

Due to the fifty-nine (59) opt-in plaintiffs in this matter, Plaintiff seeks an Order for Representative Discovery to limit the scope of discovery to a sampling of fifteen percent (15%) of the class. Due to the number of opt-in plaintiffs, Plaintiff believes this action should proceed not only under the Collective Action mechanism provided by the Fair Labor Standards Act, but also under the Class Action provisions of Rule 23(b).

Counsel has made a good faith effort to resolve both of these issues with defense counsel, Robert Nayberg, who has refused to consent to either proposal. In the event the Court decides to hear arguments from the parties, Plaintiff's counsel requests that he be permitted to present his argument telephonically, because lead counsel is located out of state.

Respectfully submitted,

/S
Justin A. Zeller